

We renewed the request and asked for the comparative analysis of the President's proposal of the clear skies with the Jeffords proposal and our proposal in the middle. We found out in 2004—we heard the information could not be provided because it looked as if Congress, the Environment and Public Works Committee, was not going to move to cleaner legislation in 2004, so they did not want the EPA to do the analysis.

We renewed our request in 2005 for the comparative analysis, and we were told that no, the EPA does not have time because we are moving so quickly toward enactment of clean air legislation.

We are now in a situation where the President's proposal was not approved by committee, and we are not moving anything. The only thing that is moving right now is lawyers—to file lawsuits on behalf of environmental groups or on behalf of utilities. It is not a good situation.

I came here to legislate. I didn't come here to litigate. I came here to get things done.

We have about 50,000 people in my State who suffer from asthma, and about 20,000 of them are kids. We have too much smog in my State—the ozone problem and too much smog—especially in the summertime, more than we do in other parts of the country. We have in my State too much mercury that has been ingested by fish, and pregnant women in Delaware and other places around the country eat those fish. There are high levels of mercury in those fish. We know what it does to the brains of the unborn those pregnant women carry.

Not everybody believes carbon dioxide leads to global warming and that we are actually seeing a temperature rising on this planet of ours. I will tell you NASA says this year will be the warmest year on record since we have been keeping records, and we have been keeping records for 150 years. We are told that 9 out of the last 10 years have been the warmest years since we have been keeping temperature records in this country.

The glaciers—I have seen some of them, and maybe others here have, too—are disappearing way up North and way down South. The snowcaps on some of the tallest mountains in the world are disappearing, too. We are actually seeing temperatures rise. We are seeing sea levels rise.

I am not going to get into an argument today about whether there is a real problem. I believe there is. I respect the views of others who disagree, but I think the preponderance of scientific evidence says we need to get started on this issue.

How does that lead us to the nomination of Stephen Johnson? I have been asking for 3 years, from the EPA, for scientific analysis that will enable our committee and, frankly, the Senate to decide what kind of clean air legislation, multipollutant legislation, to move out of committee to bring to the

Senate floor. Frankly, we have not gotten an altogether satisfactory response.

The responses are getting a little better, but we are not quite where I think we need to be. Stephen Johnson is a good man. He will be a good administrator if this administration will let him do his job. If we do not have the scientific analysis we need to be able to use good science to decide how far, how fast to go in reducing the emissions of these four pollutants, we are not going to get a clean air bill. It is just that simple.

Someday, we will have a Democratic President. It could be in a couple years. It could be longer than that. Someday, we will have a Democratic majority in the Senate, maybe even in the House. I do not think it should matter who is in the White House or who is in the majority here in the Senate. We need to work across the aisle on issues such as this. If you look at the history of this body: clean air, bipartisan legislation; clean water, bipartisan legislation; brownfields, bipartisan legislation.

If we are going to find agreement, common ground on multipollutant legislation, it is going to be because we work together, not because EPA was compelled to withhold data or information from one side or the other, but because they shared that information, and we used that information and good science to go forward.

Let me close with this. There is going to be a vote on cloture—it could be tomorrow; it could be Friday—on Stephen Johnson. As much as I am convinced he is a good man and would be a good administrator of EPA, I am even more convinced we need not just a good person to head up EPA, but we need strong, balanced multipollutant legislation in this country. The only way I believe that legislation is going to move through our committee and through this Senate is if we have good, comparable analysis, good comprehensive analysis. It is not hard to get.

I spoke with Mr. Johnson twice today. He was good enough to respond to me in writing to my requests. We met and talked a number of times. He has suggested to me what he thinks might be a compromise on the amount of information they would be willing to share. I responded, in turn, with a counterproposal. In my judgment, it is eminently reasonable.

I would hope somebody on the other side—our Republican friends either here or down at 1600 Pennsylvania Avenue—would see that maybe the better part of valor and a way to get to a win-win situation is to simply say: We will provide the information that has been requested. We will stop squabbling about it and just provide it.

If they do that, we can negotiate in earnest this spring on a multipollutant bill; and we can pass, this year, that legislation. I would call that a win-win situation—a win-win because Stephen Johnson would be allowed, literally, to be confirmed this week to head up

EPA; and our country would be on the road to having air that is cleaner to breathe and less polluted with sulfur dioxide, nitrogen oxide, and mercury; and we would have a world where the threat of global warming has been reduced a little bit as well. Those are two good outcomes.

My hope is, before we push this ball any further down the court, we can come to agreement and get those two things done.

Mr. President, I yield back my time and thank the Senator from Pennsylvania for his accommodation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANTORUM. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SENATE TRADITION ON JUDICIAL NOMINATIONS

Mr. SANTORUM. Mr. President, I had the opportunity to listen to the Democratic leader for a few moments talking about the House of Representatives and the compromise the House of Representatives just achieved on their ethics consideration.

Three comments about that compromise: No. 1, it is interesting that "compromise" means the Republicans do what the Democrats insisted upon them doing. That is a compromise, No. 1.

No. 2, that compromise meant the House went back to the way the House has always done things when it came to ethics. The compromise was to go back to the precedent and rules of the House they have always used.

Third, that compromise means—and the Senator from Oklahoma has had experience over in the House, as have I—the rules of the House will continue to be that if a Member has an ethics claim filed against them by someone—and the Ethics Committee is equally divided—particularly, if it is a Member where there happens to be political value in having an ethics claim filed against them, if the other side decides, politically, they are simply not going to hear the case, it stays on the docket forever, for as long as the session lasts, with no need to dispose or rule on that. So the ethics charge hangs out there without a decision. It automatically goes forward, in other words, unless there is a decision on the part of a bipartisan majority to end the discussion.

I think what we have seen in the past—and I know Members of the House are concerned about this—is

that there has been an abuse, a politicization of the ethics process. We all know how damaging it is because the only thing we have in this body and before our constituents is our word and our reputation. They are intangible things that are easily affected and certainly are affected when ethics charges are filed. That does not mean ethics violations have been found but simply that ethics charges have been filed.

The mere fact a charge has been filed is a very damaging thing to the reputation of a Member. To have that out there, without any need for disposition, I think is very dangerous and has proven to be—and I think will continue to be—a bad precedent.

But that is compromise. I make the argument that capitulation is not compromise. But I will agree on the second point I made, that going back to the way we have done things in the past is usually a pretty good idea when you really aren't sure how to deal with things. So I too say I am glad that the speaker, the leader, and others in the House have broken this logjam, and they have done so in a way they can at least move the process forward in the House. I too commend the Republican leadership for trying to move it forward.

I will say the same thing could be done here in the Senate. If we have a sincere disagreement as to how we should proceed with respect to judicial nominations, we could look to the example of the House of Representatives and go back to the way we did things for years and years and years. The way we have done things for years and years and years, 214 years prior to the last session of Congress, was that nominations that came to the floor of the Senate received an up-or-down vote.

It was very interesting. The Senator from Nevada criticized one of our Republican Members who suggested that we would be willing to compromise by not including all executive nominations, just including certain executive nominations. When that was proffered, the Senator from Nevada criticized this compromise and said: It is disingenuous because it is not intellectually consistent. Lots of compromises aren't. But that was for the sake of compromise, to say that we believe—and 214 years of history have shown, and the tradition and the precedent of the Senate is—when executive nominations arrive on the floor of the Senate, they receive an up-or-down vote. That is the precedent. There is not one instance in which someone who had majority support here on the floor of the Senate for a judicial nomination did not receive an up-or-down vote and get confirmed, not one precedent until 2 years ago. Then things changed.

So we have suggested we would like to go back to that 214-year precedent that served this country very well. We didn't have the acrimony we see here today. The Senator from Nevada repeatedly talked about how the public

wants us to get things done. Then don't change the rules of the game and then complain the public is angry with the fact that we are not getting things done. Look at the cause of the controversy.

The cause of the controversy lies with the previous leader of the Democrats, who put forward a strategy, a plan, a scheme to fundamentally shift the power away from the President to 41 Members of the Senate to determine what nominees will be confirmed in the Senate. That could have been done. I would agree with the Senator from Nevada and everybody else here. It could have been done 200 years ago. It could have been done 100 years ago. It could have been done 10 years ago. But it never was done. We showed restraint. I showed restraint.

The Senator from Nevada talked about how I could look back at the Clinton administration and see how President Clinton's nominees were disadvantaged. Let's look back to the Clinton administration. I can think of two people I recall very clearly to whom I was adamantly opposed. They had records as judges that were deplorable in my mind. They didn't follow the law. They were activists on the court. They put their interpretation and their views ahead of the law repeatedly. Richard Paez and Marsha Berzon were their names. They were nominated for the circuit court.

I adamantly opposed them. They were bad judges and, in my opinion, this country would be in worse shape by having them on the circuit court. I wanted them defeated. They were against a lot of what I strongly believed was bad for this country. That is what they were for, things which I strongly believed were bad for the country.

There were a lot of groups outside, a lot of conservative groups, just as they are hearing from a lot of liberal groups, who said: Do it, block their nomination. Yes, they have majority support, but block their nomination because they will do so much damage. They are bad. That is what these outside groups were saying: These folks will undermine the judiciary.

There is always a temptation to let the current fury cloud your judgment and to think about the immediate political posture or the next election or the folks who brought you here and do what they ask you to do.

We had a leader, at that time, in TRENT LOTT, and we had a chairman, in ORRIN HATCH, who said: I understand how you feel. I oppose these judges too. But there is something more here in the Senate than the passions of the day. There is something more than the groups who may support your campaigns today. When we do things that change the precedent of the Senate, it ripples, maybe forever, and can fundamentally change the balance of power, the way the judiciary functions, the way the executive functions and, as you have seen in the last 2 years, the

way this body functions or "misfunctions" as a result.

So for that moment in which I really wanted to block their nominations, when TRENT LOTT and ORRIN HATCH filed cloture on those two nominees to move the vote forward, not to block their nomination, but to move their vote forward, I voted along with 85 of my colleagues. A vast majority of Republicans and all the Democrats voted to allow their vote to come. Richard Paez did not get 60 votes when his confirmation came up. In other words, had we wanted to filibuster Richard Paez, we would have been successful. He would not have gotten 60 votes. He would not be a judge on the circuit today had we wanted to block his nomination.

But my belief is—and the vast majority of Republicans' belief was at that time—as much as we opposed the nomination, we supported the tradition and the precedent of the Senate because we are but stewards of this place. We don't own this institution. Yes, we say we run this institution. We don't run this institution. We are simply stewards. We are passersby. When we crack the foundation of the way things have been done and worked for this country for 200-plus years, we leave behind a foundation that may not sustain us as a people.

To stand before the Senate, as my colleagues on the other side of the aisle have done repeatedly over the last few weeks, and talk about how they are being aggrieved by what the Senate Republicans are trying to do and calling this the nuclear option repeatedly, and suggesting somehow or another this is destroying the filibuster, when it was never used—underscore that, never used—to block a judge on the floor of the Senate prior to the last session of Congress, when the Democratic minority decided they could not resist, they had to put politics over process. They had to put partisanship over the stability of this institution for the long term.

I suspect there are a lot of folks on the other side of the aisle who regret that happening, and they probably regret it today. Where are the statesmen? Where are the folks who quietly whisper to one another that this was wrong? Where are they to stand up and set it straight?

I desperately hope we do not have to cast this vote on the floor of the Senate to return the precedent of the Senate to the way it has been for 214 years because it would show what two sides were able to do for 214 years. I say to the Presiding Officer from Oklahoma, think about all of the conflicts and passions that have occurred through all of the great debates in the Senate. People were shot in the Senate, and there were fisticuffs and beatings. The passions must have been incredible at certain times. But we always were able to understand that there were some things bigger than the passion of the moment. This institution is one of

them. The way this institution functioned to balance powers was one of them. What the other side of the aisle is doing, I say to the Senator from Illinois, is fracturing the foundation of this institution.

So I hope we don't have a vote. I hope we don't have a vote. I hope there will be some on both sides of the aisle who would look to the 214-year precedent when, in spite of strong disagreements, the Senate was able to find comity to get things done.

We need to get things done. I know the Democratic leader has threatened to shut down the Senate—his words, not mine, “shut down the Senate”—if they don't get their compromise. What is their compromise? They want to continue to do what they did in the last session of the Congress. That is their compromise. I find it somewhat remarkable that the Senator from Illinois praised the Senator from Nevada for his “compromise.” His compromise says if the ten judges they were blocking from the last session—they have successfully blocked three because they have been withdrawn, and now they are suggesting they want to block at least three more. They don't care which ones they are. I know this was all driven by pure concern about each and every one of these, but for some reason they can pick which three. Some might suggest this is less about the individual and more about politics, but now we are sort of in this compromise and, fine, let's compromise. Fine. We will take ten, we get to kill six, and you get to pick the four we move forward with. That is compromise. Oh, and by the way, we reserve the right to continue to do this in the future. This is the great Henry Clay type of statement that we see before the Senate: Of the ten that we have blocked—against every precedent of the Senate—we will take six, and these fine individuals, all well qualified by the ABA—the “gold standard,” in Senator LEAHY's words, not mine—we will take these fine upstanding people in the community and tarnish their reputations for the rest of their lives.

By the way, you pick the three we are going to tarnish, and we will let you have four nominees. By the way, you can go ahead and expect that we will block others in the future.

That is their compromise. That is the great olive branch: We will continue to abuse 214 years of history.

I ask anyone if you can point out one nominee for the court on the floor of the Senate who had majority support who was blocked by filibuster. Name one who had majority support. It never happened. So what is the compromise? The compromise is that six judges who had majority support on the floor of the Senate will be denied confirmation, and we will do so to others in the future if we so desire. That is the compromise. I don't think most people objectively looking at that would see that as much of a compromise.

The Senator from Illinois said another remarkable thing. I will go back

and check the record. I find it hard to believe. He said Senator FRIST came to the floor yesterday and said he would not be a party to any negotiation on this issue. That is what the Senator from Illinois said.

Let me review the record. Senator FRIST, in the last session of Congress, offered a compromise with Zell Miller called the Frist-Miller approach. It was a compromise. It is still a compromise that is out there. I know for a fact—and I suspect others on the other side of the aisle do, too—that Senator FRIST has repeatedly offered compromises to the Democratic leader.

I know also for a fact that the Senate majority leader, Senator FRIST, is very much open to negotiation and compromise, to return the precedent of the Senate and find a way in which we get back to what was just lauded by the other side of the aisle—returning, as the House just did, to the way they have always done things. So, too, would we like to do that—return to the way we have always done things. But that is too much of a reach, I suspect, for some because we have partisan agendas. We have, even more so, I suggest, not just partisan agendas because I think in part it is driven by partisanship, but I think it is mostly driven by ideology.

What I think is sadly true is that the agenda of the other side of the aisle—which we have not seen a whole lot of as far as solutions; we have seen a lot of obstruction, not a whole lot of ideas but a lot of obstruction—is not accomplished in democratic forums anymore. It is accomplished through the courts. So I think what we are seeing is a gasp of saying that we can no longer win elections on our agenda. We can no longer win votes on the floor of the Senate with our agenda—the most radical elements of our agenda, anyway—so we must hold on to the courts. We must hold on and make sure those individuals who are willing to be activists on the court and overturn the will of the Congress, create new rights in the Constitution, bypass the democratic process, amend the Constitution through court edict, as opposed to the traditional way laid out by our Founders, we want to make sure that we still have the ability to enact our agenda on the courts.

Another point I will make is that I am very much for the filibuster. I believe the filibuster is exactly what our Founders intended when it comes to legislation—absolutely what they intended, that the Senate would be a place where the hot tea would be poured into the saucer and cooled. I support it and, in fact, I voted to support it because when I was first elected to the Senate, some Democratic Members offered a change to the rules that would have eliminated the filibuster and gone to a simple majority on all legislative matters.

This was interesting because at the time, as I said, the Republicans were in the majority, and yet Democrats were

offering this rather savory morsel out there for those of us who recently came to the Senate and wanted to get a lot of things done and understood how difficult it would be. We had a Contract With America, we may recall—the House was moving forward and wanting to pass a lot of bills. We had a lot of momentum over here. There was a part of me that said: That would be great, we could get rid of this. I said: No, the Founders had it right, the traditions of the Senate are right. We do not need to change this institution because of the whims of the moment, because of the passions of the day, because of the interest groups off Capitol Hill that would want us to do so.

No, we have a higher duty. We have a higher duty. That duty is to this institution because this institution is the bulwark of this democracy that protects us from doing rash and sometimes irrational things in which at times the public gets swept up. No, that is what this institution is for when it comes to legislative passions.

By the way, there were 19 people, 19 Democrats who voted to end the legislative filibuster, but not one Republican. Not one. So the legislative filibuster is important, and it will remain in place as a result of anything we do over the next few weeks with respect to judicial nominations.

I close by saying I am hopeful we can find a compromise, but what I keep hearing from the other side is this incredible spinning that somehow or other what has gone on here in the last 2 years was part of the normal course, and the fact that this was done in previous Congresses, as the Senator from Nevada mentioned, in committee, in committee these nominations were killed.

Were these nominations killed? Some nominations were held and defeated in committee, that is right. By whom? By the majority—by the majority. The majority on the floor of the Senate has defeated nominations. The majority in committee has defeated nominations. But never before has the minority in committee defeated a nomination. Never before has the minority on the floor defeated a nomination. Never before has the minority been able to dictate to a President who they will nominate either for their Cabinet or for some of the most important positions in the judiciary. Never before until now.

This is taking power away from a popularly elected President who, under the Constitution, has the right to nominate people. President Clinton, I believe, had over 350 judges confirmed. I think I voted against maybe 5, 6, something like that; less than 10, I know that. I did not agree ideologically with probably more than 10, but as I went home and had to face some of my constituents who were upset with me for voting for one judge or another because they did not like their politics, I said: You will have to take it up with the American people because President

Clinton won the election, and he has a right to nominate who he wants as long as they are within the mainstream. That does not mean they are going to agree with me philosophically. There are a lot of people in the mainstream who are center and left of center who have a right to serve, as people who are right of center have a right to serve, and I am not going to impose my ideology on somebody else's nominees.

That is what is going on today. It is an ideological litmus test, and it is now infecting this body to the detriment of the Senate.

I hope cooler heads will prevail, and that those of us who showed restraint and did not vote for filibusters, voted for cloture on nominees we did not like—that there will be those who will stand up and do the same on the other side of the aisle in the future.

Mr. President, I yield the floor, and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### FILIBUSTER HISTORY

Mr. DURBIN. Mr. President, I know it is late, and I will be very brief. I want to make a quick response to my colleague and friend from Pennsylvania, Senator SANTORUM. I am sorry I had to leave the floor while he was speaking.

What I am about to say I would be happy to say with Senator SANTORUM in the Chamber and would be happy to respond to tomorrow. The Senator from Pennsylvania made the point that he thinks the golden rule here is, the principle here is that every judicial nominee is entitled to a majority vote up or down.

That is an interesting idea, and it might be appealing to some people if they do not know the rules of the Senate. For 214 years, we have said if you bring an amendment, a bill, or a nomination to the floor of the Senate, it is subject to Senate rules. And Senate rules are very clear. Any Senator can take the floor and begin a debate and hold the floor as long as that Senator physically can, unless 60—now 60 members of the Senate—vote otherwise. So you need an extraordinary majority—60 Senators—to stop a filibuster. That is the way it has always been.

In the beginning it was different. Senators could not stop a filibuster until 1919. In 1919 it took 67 votes; a few years back we changed that to 60 votes. But it has always taken more than a majority to stop a filibuster.

In "Mr. Smith Goes to Washington," Jimmy Stewart is on the floor, holding the floor as long as he did. That is the Senate. That is the tradition of the Senate.

The Senator from Pennsylvania says it has always been a majority vote. Sadly, he is mistaken. There has always been the opportunity for filibuster on a nomination.

So he was mistaken in that assertion.

The second thing the Senator from Pennsylvania was mistaken about was his oft-repeated comments that never, ever, not once in the history of the Senate—we hear it from the Senator from Pennsylvania and others has a filibuster been used on a judicial nomination. It has never been done until the Democrats recently did it to a number of President Bush's nominees.

Unfortunately, again, history is not on the side of the Senator from Pennsylvania. On 12 different occasions, beginning in 1881, filibusters have been used to stop judicial nominations. In 1881, it was Stanley Matthews to be a Supreme Court Justice; 1968, Abe Fortas to be Chief Justice of the Supreme Court was subjected to a filibuster; right on down through the Clinton administration, when, in fact, on two different occasions—maybe more, as I look at this list—there were filibusters applied to Clinton nominees. So for the Republican side of the aisle to consistently state what history tells us is not true is unfortunate.

I ask unanimous consent to have printed in the RECORD this history of filibusters and judges so anyone who follows congressional proceedings can read the names and circumstances for each and every judge who has been subjected to a filibuster in the history of the Senate.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### HISTORY OF FILIBUSTERS AND JUDGES

Prior to the start of the George W. Bush administration in 2001, the following 11 judicial nominations needed 60 (or more) votes—cloture—in order to end a filibuster:

1881: Stanley Matthews to be a Supreme Court Justice.

1968: Abe Fortas to be Chief Justice of the Supreme Court (cloture required  $\frac{2}{3}$  of those voting).

1971: William Rehnquist to be a Supreme Court Justice (cloture required  $\frac{2}{3}$  of those voting).

1980: Stephen Breyer to be a Judge on the First Circuit Court of Appeals.

1984: J. Harvie Wilkinson to be a Judge on the Fourth Circuit Court of Appeals.

1986: Sidney Fitzwater to be a Judge for the Northern District of Texas.

1986: William Rehnquist to be Chief Justice of the Supreme Court.

1992: Edward Earl Carnes, Jr. to be a Judge on the Eleventh Circuit Court of Appeals.

1994: H. Lee Sarokin to be a Judge on the Third Circuit Court of Appeals.

1999: Brian Theodore Stewart to be a Judge for the District of Utah.

2000: Richard Paez to be a Judge on the Ninth Circuit Court of Appeals.

2000: Marsha Berzon to be a Judge on the Ninth Circuit Court of Appeals.

Because of a filibuster, cloture was filed on the following two judicial nominations, but was later withdrawn:

1986: Daniel Manion to be a Judge on the Seventh Circuit Court of Appeals Senator Biden told then Majority Leader Bob Dole

that "he was ready to call off an expected filibuster and vote immediately on Manion's nomination."—Congressional Quarterly Almanac, 1986.

1994: Rosemary Barket to be a Judge on the Eleventh Circuit Court of Appeals "... lacking the votes to sustain a filibuster, Republicans agreed to proceed to a confirmation vote after Democrats agreed to a day-long debate on the nomination."—Congressional Quarterly Almanac, 1994.

Following are comments by Republicans during the filibuster on the Paez and Berzon nominations in 2000, confirming that there was, in fact, a filibuster:

"... it is no secret that I have been the person who has filibustered these two nominations, Judge Berzon and Judge Paez."—Senator Bob Smith, March 9, 2000.

"So don't tell me we haven't filibustered judges and that we don't have the right to filibuster judges on the floor of the Senate. Of course we do. That is our constitutional role."—Senator Bob Smith, March 7, 2000.

"Indeed, I must confess to being somewhat baffled that, after a filibuster is cut off by cloture, the Senate could still delay a final vote on the nomination."—Senator Orrin Hatch, March 9, 2000, when a Senator offered a motion to indefinitely postpone the Paez nomination after cloture had been invoked.

In 2000, during consideration of the Paez nomination, the following Senator was among those who voted to continue the filibuster: Senator Bill Frist—Vote #37, 106th Congress, Second Session, March 8, 2000.

Mr. DURBIN. Mr. President, the Senator from Pennsylvania is very discreet in how he explains his view of dealing with judges, that every judge should be allowed a majority up-or-down vote. That is not a bad concept if that really was what the Senator from Pennsylvania could point to in his own record. Under President Clinton's administration, nine of the President's judicial nominees to the Commonwealth of Pennsylvania were confirmed by the Senate, while eight were never even given hearings before the Judiciary Committee. So the Senators who are now begging for majority votes and majority rules thought nothing of cloturing and burying these judicial nominees under the Clinton administration, to the point where they had no possibility of being confirmed.

Let me be specific. John Binger was nominated by President Clinton. Senator SANTORUM exercised his discretion over nominations in his State and held up this nomination for 2 years, until Mr. Binger withdrew.

Robert Freedberg, another nominee by President Clinton. Senator SANTORUM delayed the entire slate of judicial candidates, saying the President didn't honor an earlier agreement to nominate a particular Pittsburgh attorney whom he, Senator SANTORUM, wanted.

Lynette Norton. As was reported by the Pittsburgh Post Gazette on July 22, 2000:

Sen. Rick Santorum insisted yesterday the Senate will not act on any nomination for the U.S. District Court here until next presidential administration...

He was very clear on what his agenda was: it was to hold up nominations that were going to be filled by President Clinton until, hopefully, in his